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Ontario

ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 376

DATE: Friday, May 1, 1992

BEFORE:

A. KOVEN Chairman

E. MARTEL Member

FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held at the offices of the Ontario
Highway Transport Board, 10th Floor, 151 Bloor
Street West, Toronto, Ontario, on Friday, May
1st, 1992 commencing at 9:00 a.m.

VOLUME 376

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.	)	MINISTRY OF NATURAL
MS. C. BLASTORAH	)	RESOURCES
MS. K. MURPHY)	
MR. B. CAMPBELL)	
MS. J. SEABORN	)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE)	
MR. R. TUER, Q.C.	)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN	)	ASSOCIATION and ONTARIO
MS. E. CRONK	)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY	)	ASSOCIATION
MR. D. HUNT)	
MR. R. BERAM		ENVIRONMENTAL ASSESSMENT BOARD
MR. J.E. HANNA	)	ONTARIO FEDERATION
DR. T. QUINNEY	)	OF ANGLERS & HUNTERS
MR. D. O'LEARY		
MR. D. HUNTER	)	NISHNAWBE-ASKI NATION
MR. M. BAEDER	)	and WINDIGO TRIBAL COUNCIL
MS. M. SWENARCHUK	)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MR. D. COLBORNE	)	GRAND COUNCIL TREATY #3
MR. G. KAKEWAY)	
MR. J. IRWIN		ONTARIO METIS & ABORIGINAL ASSOCIATION
MS. M. HALL		KIMBERLY-CLARK OF CANADA LIMITED and SPRUCE FALLS POWER & PAPER COMPANY

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MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

APPEARANCES (Cont'd):

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

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1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Please be seated. Good
3 morning, Mr. Freidin.

4 MR. FREIDIN: Good morning, Madam Chair,
5 Mr. Martel.

6 HERB BAX,
7 DARLENE DAHL,
8 BERNIE NEARY; Resumed

9 CONTINUED CROSS-EXAMINATION BY MR. FREIDIN:

10 Q. Ms. Dahl, I wanted to continue our
11 discussion regarding the MOE proposal to show these
12 optional harvest areas.

13 And, in that regard, could you please
14 turn to your terms and conditions Appendix No. 4, and
15 there's two places there where this appears and it may
16 be useful, but I have your terms and conditions out,
17 2202, the thin little blue one.

18 MS. DAHL: A. Oh, yeah.

19 Q. And it's found on page 12 and 13, and
20 actually goes over to page 14, but have your document
21 open on page 12.

22 MADAM CHAIR: Are you talking about Ms.
23 Dahl's written evidence on page 10?

24 MR. FREIDIN: Same thing.

25 MADAM CHAIR: Okay.

MR. FREIDIN: It's the same thing.

1 Q. And I want to focus -- first of all,
2 this whole appendix is in fact a reproduction of MNR's
3 commitment, the changes or additions you've made are
4 underlined; is that correct?

5 MS. DAHL: A. Yes, that's correct.

6 Q. So if we look at Appendix 4 and we go
7 down to paragraph 2(b) where it indicates that -- well,
8 first of all, let's go to the beginning.

9 It says, at the information center
10 here's the material that will be produced in paragraph
11 2(a), this information to be produced at the
12 information centre, with your suggestion that there be
13 some additional information provided in 6; correct?

14 A. Yes.

15 Q. And then it says:

16 "(b) In relation to all that material
17 there will be an evaluation of
18 alternatives for each primary access road
19 which will be required for the 20-year
20 period of the plan, each primary and
21 secondary access road which will be
22 required for the five-year term of the
23 plan, and operation prescriptions for
24 areas of concern."

25 Now, Ms. Dahl, would you agree that the

1 way the MNR planning process has been designed, that
2 this contemplates that at the first information centre
3 the public would see an allocation map - and let's just
4 try to limit it to the allocation for harvest map - on
5 which they would see what we referred to in the second
6 map here, where they would see the areas which were
7 actually selected up to the maximum allowable
8 depletion; correct?

9 A. Yes.

10 Q. And in relation to those areas, there
11 would be a discussion and an indication of the
12 preliminary planning that had been done for those
13 areas; is that correct?

14 A. I'm sorry. For the harvest areas?

15 Q. Yes. In other words, 2(b)(ii) -
16 let's just talk about the five-year plan - 2(b)(ii)
17 says:

18 "An evaluation of alternatives for
19 these primary secondary roads which will
20 be required for the five-year term of the
21 plan and operational prescriptions for
22 areas of concern."

23 So at this stage the public -- it is
24 proposed that preliminary planning will have been done
25 and an indication of alternative roads to the selective

1 harvest areas, tentative planning in terms of how all
2 of the areas of concerns would in fact be dealt with;
3 is that correct, that's how the process is proposed by
4 MNR?

5 A. Yes.

6 Q. And just so that we are aware of what
7 is involved in that, in relation to the evaluation of
8 alternatives for 2(b)(ii), would you agree with me that
9 the planning which would have to be done in order to
10 describe those alternatives, that is, each primary and
11 secondary access road which will be required for the
12 five-year term of the plan, is contained in the
13 Ministry's terms and conditions, conditions 25 --
14 pardon me, 37 to 45.

15 Perhaps maybe you should just take out
16 Exhibit 2032, at page 13, and under the heading:
17 Primary and Secondary Road Locations, Five-Year Plan
18 Term, there are a number of specific planning
19 requirements which would have to be complied with
20 before you would go to the information centre and be
21 able to, in fact, show the information referred to in
22 Appendix 4, paragraph 2(b)(ii); is that correct?

23 A. I believe the information set out in
24 these terms and conditions is what is required in the
25 final timber management plan. I wouldn't necessarily

1 agree that all of this has to be done in full before
2 the first information centre.

3 Q. Well, Ms. Dahl, I understand and I
4 agree that a decision has not been made when you go to
5 the first information centre in relation to those
6 matters, but surely you will agree that the way this
7 planning process is structured that the requirements of
8 terms and conditions 37 to 45 would have to have been
9 addressed before you could go and show anything
10 reasonable in terms of alternatives for primary and
11 secondary access roads which would be required for the
12 five-year term of the plan?

13 A. I would agree that you do have to
14 show alternatives for access roads but, as you said, it
15 shouldn't be the selected alternative at this point.

16 Q. Would you agree that although you
17 don't have to in fact -- would you agree that the
18 planning which is in these terms and conditions would
19 have to be done before you could do a reasonable job of
20 showing those alternatives, and that is what MNR
21 proposes to do?

22 A. I would have to disagree that the
23 conditions that relate specifically to selection of the
24 corridors from among the alternatives has to be done
25 before the first information centre.

1 Q. All right.

2 A. The identification of alternatives
3 would have to be done and some of the analysis. But,
4 again, the purpose of the information centre itself is
5 to get comments on these alternatives and generate
6 additional alternatives.

7 Q. Which alternatives is the information
8 centre supposed to get information on?

9 A. It's my understanding that it would
10 be any alternatives that are presented at that
11 information centre.

12 Q. You haven't agreed -- MOE has not
13 agreed with these terms and conditions 37 to 45.

14 A. We have agreed with those terms and
15 conditions that that's required in the contents of the
16 timber management plan.

17 Q. It's got to be done some time?

18 A. Yes.

19 Q. Well -- all right. So you're saying
20 it doesn't have to be done before the first information
21 centre?

22 A. Some of it would have to be done
23 before the information centre to show the alternatives.
24 I don't know if I would agree that you have to fully
25 complete all of these steps before the first

1 information centre.

2 Q. At the first information centre, what
3 needs to be shown to the public regarding road
4 corridors to the areas, which now I think you refer to
5 as not areas selected for harvest but all these
6 optional areas for harvest?

7 A. As I explained--

8 Q. Just -- all right, go ahead.

9 A. --when I went through my presentation
10 of the evidence, I think that alternatives for road
11 corridors would have to be shown. There are various
12 ways of doing that at various levels of detail, you
13 know, how far you go through your planning process
14 before you show them, and that that would be something
15 determined by the planning team, whatever's
16 appropriate.

17 Q. Here's the problem I'm having, Ms.
18 Dahl. And just before I do this, do you agree -- you
19 said that you agreed that the planning which is set out
20 in MNR's terms and conditions 37 to 45 would have to be
21 done in relation to roads somewhere in the process;
22 correct?

23 A. Yes.

24 Q. And those terms and conditions in a
25 very general way indicate that you have to show

1 alternative corridors to the areas where you're
2 actually going to harvest; correct?

3 A. Well, it says alternatives for the
4 five-year term of the plan.

5 Q. It would have to show alternative
6 corridors to the areas selected for harvest; correct?

7 A. Well, the term and condition says,
8 the evaluation of alternatives for primary and
9 secondary access roads required for the five-year term
10 of the plan.

11 Some of the alternatives may not be
12 chosen. Obviously, you're your preferred
13 alternatives--

14 Q. You have to show them --

15 A. --would go to the areas that you
16 selected to harvest.

17 Q. Well, you're are not going to have
18 alternate corridors going somewhere into the middle of
19 nowhere, they've all got to go to the areas selected
20 for harvest, Ms. Dahl.

21 A. Or the options available for harvest.

22 Q. Right. But they're all going to have
23 to get to the areas selected for harvest.

24 A. Yes, in the end.

25 Q. So you have to show alternate

1 corridors getting to the areas selected for harvest;
2 right?

3 A. Or alternate corridors for options if
4 you haven't selected those areas yet.

5 Q. All right. And alternate corridors
6 going to the optional areas. Now, do I take it then
7 that if you've got a plan then -- what did you use for
8 your optional areas, blue or black; do you remember?

9 A. I think the optional areas were blue.

10 Q. Okay. The MNR planning process ends
11 up with black areas, areas selected for harvest up to
12 the MAD for each working group.

13 You've just told me that, yes, indeed
14 sometimes through the planning process you have to have
15 alternate corridors going to the areas selected for
16 harvest.

17 There's one, this may be one, you may
18 have one going - depending where you're starting - you
19 could have a number -- as a requirement under the
20 proposed terms and conditions of MNR that you say would
21 have to be done some time in the process, you have to
22 show alternate road corridors going to the areas
23 selected for harvest; am I correct?

24 A. Yes.

25 Q. Now, you just told me that you would

1 want to have optional road corridors to the optional
2 areas for harvest, and you told me yesterday -- or
3 agreed with me yesterday that those optional areas for
4 harvest could be close to the areas selected for
5 harvest or, depending on the forest condition, they
6 could be quite distant.

7 So let's take the situation where - and
8 unfortunately I've drawn a bit too large - but you have
9 other areas that may be quite distant.

10 Would you agree that if you now have to
11 show alternate road corridors to the areas, the
12 optional harvest areas you now have a very good
13 possibility that you're going to have different road
14 corridors which you're going to have to put on your map
15 and consider the alternatives?

16 A. You wouldn't necessarily have to show
17 alternate corridors to each of those other areas. As I
18 explained when I presented my evidence, there's a
19 number of different ways of doing it.

20 There may be other roads which are in the
21 vicinity of some of those alternate areas and you could
22 look at accessing them off those roads.

23 Q. Well, okay.

24 A. It's going to depend on the unit.

25 MS. SEABORN: Let her finish, Mr.

1 Freidin.

2 MR. FREIDIN: Q. All right.

3 MS. DAHL: A. It's going to depend on
4 the forest management unit.

5 Q. All right.

6 A. There's different ways of doing it.

7 Q. It will depend on the forest
8 management unit, but even if you have some of those
9 optional areas that can be accessed off an existing
10 primary road, you're still going to have to show two or
11 three alternative secondary roads to get to that;
12 aren't you?

13 A. I'm not sure if you would have to
14 show two or three alternates to each area.

15 Q. Well, you told me that you would have
16 to show alternate corridors to access the optional
17 harvest areas.

18 Are you now telling me that you don't
19 have to show optional corridors to the optional harvest
20 areas?

21 A. I'm just saying that you may not
22 necessarily have to show two or three corridors to each
23 individual area.

24 Q. How are you going to determine how
25 many alternate road corridors you should show to now

1 these additional optional harvest areas?

2 A. I would say that that would be
3 determined by the planning team based on what's
4 reasonable and practical to do in the situation.

5 In any event, if you do show those
6 alternate corridors, as you've suggested, and the
7 public wants to look at some other alternatives at this
8 stage, you would still have to go back and look at
9 other alternative corridors.

10 Q. And there would be even more?

11 A. It's a possibility, yes.

12 Q. All right. So I think we can agree
13 that the more areas you show for optional harvest the
14 more roads or alternative road corridors you are going
15 to have to show and plan to some degree?

16 A. Not necessarily.

17 Q. Oh. How can you have optional
18 harvest --

19 A. As I explained --

20 Q. How can you have optional harvest
21 areas and if you need a road to get there, how can you
22 say that you wouldn't show more roads than if you had
23 fewer optional areas?

24 A. Because earlier in the planning
25 process you show the roads in a more general nature,

1 you may eliminate areas because it's not cost effective
2 to get to them. Before you have to do any detailed
3 access planning associated with that area you may
4 eliminate it from consideration.

5 The detailed planning would end up being
6 done in those areas that are most likely to be chosen
7 or that are selected.

8 MADAM CHAIR: So are you saying, Ms.
9 Dahl, that -- let's say the optional, the blue -- let's
10 say there's an optional area that the planning team
11 considers among the various eligible areas and it's not
12 near any road and the cost of building a new -- any
13 road network is out of the question, so the planning
14 team says: Well, this is an option that we will put on
15 our summary map but we're just going to tell the public
16 that it's just not within the realm of possibility, and
17 we're not even going to show any alternative access
18 points to it because it's not worthwhile doing that.

19 We're going to tell the public: This
20 There is an option we're mapping out for you but
21 there's nothing -- you can't harvest this area in the
22 next five years because you couldn't afford to build a
23 road there.

24 MS. DAHL: Yeah, you could do it that
25 way, and obviously a significant disadvantage of that

1 area would be the cost of accessing it. So in this
2 five-year term you're not going to consider that area.
3 Five years from things may be different.

4 MADAM CHAIR: So the public sees an
5 option that isn't a very feasible option but it is
6 mapped?

7 MS. DAHL: It could be mapped. Again, I
8 think the planning team would have to decide. If
9 something's totally unrealistic it's probably not
10 worthwhile showing it. Your options should be, you
11 know, relatively reasonable before you would display
12 them to the public.

13 MADAM CHAIR: And you would leave that to
14 the decision of the planning team with advice from the
15 local citizens group as to what are reasonable options?

16 MS. DAHL: Yes.

17 MADAM CHAIR: And so there may be some
18 sifting out before anything gets on the summary map?

19 MS. DAHL: Yes, it could be.

20 MR. FREIDIN: Q. Ms. Dahl, what is 2(b)
21 of your Appendix 4 intended to apply to?

22 MS. DAHL: A. It's alternatives for
23 primary and secondary access roads that will be
24 prepared for the five-year term of the plan.

25 Q. What geography is it to be applied

1 to?

2 A. Well, to the forest management units
3 you're dealing with.

4 Q. And is it to apply to areas -- is it
5 to apply to all optional harvest areas that are shown?

6 A. Again, I think the planning team
7 would have to determine what's reasonable. Obviously
8 you don't want to show unrealistic alternatives to the
9 public.

10 Q. Is it to apply to all the optional
11 harvest areas -- would you have to show a road to
12 access all optional harvest areas?

13 A. I would say you probably would, but I
14 can't say for sure because it's going to depend on the
15 characteristics of the forest management unit.

16 I would think most likely whatever your
17 reasonable optional areas are that have been selected,
18 there would be at least one possible alternative for
19 accessing it, maybe more depending on if it's a more
20 preferable area.

21 Q. All right.

22 MR. BAX: A. Madam Chair, can I -- since
23 I provided some advice on this as well, can I just make
24 a point.

25 I think what's missing is these types of

1 options or alternatives is already done, they don't go
2 in and just simply select this and say this is where
3 we're going to harvest. They look at the stands, they
4 look at the areas, they come from the 20-year, narrow
5 it down to the five-year.

6 So this kind of options that they look at
7 is done, including alternatives to the roads and
8 including alternatives to the alternative areas,
9 because they have to weigh what is most economical,
10 does it meet the eligibility criteria, is there
11 sufficient volume within the working groups that meet
12 the MAD criteria.

13 So I think what our client is asking for,
14 the Ministry of Environment, is just a simple
15 explanation to the public so they can determine, yes,
16 they didn't select this particular area for no
17 particular reason, they looked at some alternatives.
18 Like, this is the one and this is the reason for it.

19 Again, I think their thrust behind it is
20 just a well-informed public who will better understand:
21 Why on earth did you just pick just that one area.

22 Q. Right. But Madam Chair made a
23 comment earlier I think during your direct evidence and
24 made a comment just a moment ago, I think along the
25 same lines, saying, it has to be a genuine opportunity

1 to the public to say I want A or I want B.

2 Now, what I hear you saying, Mr. Bax, and
3 perhaps what you're saying, Ms. Dahl, is the public
4 don't really get to choose A versus B, you're just
5 explaining here's where we're going, we could have gone
6 there, but don't worry about it, we're not going there
7 because we like to go here it's cheaper to be very
8 simple.

9 MS. DAHL: A. The public has input in
10 the process. The public obviously doesn't choose the
11 area, that's the role of the planning team, but they
12 may have additional information in relation to
13 advantages and disadvantages to offer, comments on
14 what's important to the local community. The public
15 can provide more information, have that input before
16 the final decisions are made.

17 Q. How much information do you have to
18 provide to the public now in relation to the optional
19 areas?

20 A. It's in the term and condition, a
21 brief description of the advantages and disadvantages
22 associated with those areas.

23 If the public wants more information,
24 then at that first information centre they'll often
25 talk to the staff there, and if they want more

1 information on a certain advantage or disadvantage, I'm
2 sure they could get that from speaking with the
3 forester or members of the planning team.

4 Q. What level of area of concern
5 planning do you have to do when you go to this
6 information centre and show them not only the areas --
7 an area equal to the area MNR would select for harvest
8 but all these optional areas, what level of AOC
9 planning do you have to do? Is it more or less --

10 A. Well, first of all, you would have
11 the values map.

12 Q. Pardon me. Is it more or less or
13 equal to the amount that's set out in MNR's terms and
14 conditions?

15 A. Well, the MNR terms and conditions
16 don't explicitly set out the amount of planning that's
17 done at this level at the first information centre.
18 It's my understanding that--

19 Q. Well --

20 MS. SEABORN: Let her finish, Mr.
21 Freidin.

22 MS. DAHL: --for a lot of areas of
23 concern it involves the application of the appropriate
24 guidelines, so there may not be a lot of explicit
25 evaluation of alternatives on a certain AOC.

1 MR. FREIDIN: Q. Ms. Dahl, what do MNR's
2 terms and conditions say about the level of planning
3 that's necessary for areas of concern at the first
4 information stage?

5 MS. DAHL: A. It says information on the
6 evaluation of alternatives for areas, operational
7 prescriptions for areas of concern will be made
8 available.

9 Q. What does MNR's terms and conditions
10 say about the amount of planning that's required --
11 that would precede that? Do you know?

12 A. Well, it doesn't say the amount of
13 planning in this appendix.

14 Q. Does it say it in the terms and
15 conditions, Ms. Dahl?

16 A. It says in the terms and conditions
17 what's required in the timber management plan.

18 Q. Would you turn to terms and
19 conditions 33 to 36 of the Ministry of Natural
20 Resources terms conditions, please.

21 And do you not agree that MNR terms and
22 conditions 33 to 36 describes the planning which,
23 according to MNR's planning process, is required to be
24 done prior to going to the first information centre and
25 showing alternatives?

1 A. As with the roads, I don't
2 necessarily agree that all of this has to be done in
3 full before the first information centre.

4 Q. Well, I'm suggesting to you that if
5 you read those terms and conditions, and you read term
6 and condition No. 8 of the Ministry of the Natural
7 Resources terms and conditions that it's clear that
8 MNR's proposed planning process does require this
9 planning to have been done.

10 Even if you decide whether you think
11 there should be less, would you agree with me that
12 MNR's terms and conditions indicate that that is the
13 level of planning which is required?

14 A. I don't see where term and condition
15 8 says that all of that has to be done in full before
16 the first information centre.

17 Q. So when it says in 8(a) Stage 2, and
18 go down about five lines it says:

19 "...will provide a formal opportunity for
20 public comment on the assembly and
21 analysis on background information and
22 evaluation of alternatives", that terms
23 and conditions 33 to 36 really can be ignored?

24 A. I'm not saying they can be ignored.
25 What I'm suggesting is you can do your initial look at

1 your evaluation of alternatives at a more general
2 level, get public input, and then you have to go back
3 and refine that and do a little more work on it based
4 on the public input before you prepare the draft timber
5 management plan.

6 Q. Okay. So you're really seeing going
7 to the first information centre with a lot less
8 information than is proposed in MNR's terms and
9 conditions; is that correct?

10 A. I don't see the level of detail
11 proposed in the MNR terms and conditions for the first
12 information centre. It's my opinion that you don't --
13 you shouldn't be doing significant detailed planning
14 before you've had the first formal opportunity to
15 consult with the public.

16 Q. All right.

17 MR. MARTEL: Could I ask a question. Why
18 wouldn't you present to the public the best information
19 available on which they themselves could then have some
20 comment as opposed to saying: Well, some of it could
21 be missing.

22 I mean, surely you go there with the best
23 information you have, seeking additional input from the
24 public, but the Ministry should be as well prepared as
25 possible; shouldn't it?

1 MS. DAHL: Yes, you should go there with
2 the best information you have available. I'm just
3 saying that you shouldn't be selecting your preferences
4 and then doing increasingly detailed work on those
5 before the public has had any opportunity to comment.
6 I mean, that's when you run into the problem of the
7 public --

8 MR. MARTEL: Yes, but I asked you
9 yesterday about your 2(a)(vi) where you go as far there
10 as to suggest a preferred option.

11 Now, you can't have it both ways. You
12 either want to put the material before the people that
13 they feel they have an opportunity to comment before a
14 decision is made, and that would exclude any options,
15 and the best information available on which to base --
16 at least make up their mind.

17 MS. DAHL: That was put in just -- you
18 still show the options but to allow for those cases
19 where the planning team may feel that they want to
20 advise the public which is their preferred options so
21 that the public knows that. There may be cases where
22 they want to know that.

23 We just didn't want to, you know, exclude
24 that possibility. That doesn't mean that you wouldn't
25 show the other options that were available because you

1 were showing the preferred option.

2 MR. MARTEL: If I were the public I would
3 probably say at that stage: You've made up your mind
4 really and what I am doing here is rubber stamping.

5 MS. DAHL: Well, that's the risk that the
6 planning team would have to decide. If they want to
7 show the preferred option, then that's a risk that they
8 would have to take.

9 MADAM CHAIR: Is it your position now,
10 Ms. Dahl, or do you think that -- is the MNR now
11 suggesting that in fact in their process a preferred
12 option would be shown to the public at the first
13 information centre?

14 MS. DAHL: Yes. The areas selected are
15 shown at the first information centre and the detailed
16 planning of roads and areas of concern associated with
17 that, and there are no options presented for harvest
18 areas.

19 And that's the concern, that when they
20 come to the first information centre all of that has
21 already been done.

22 MR. FREIDIN: Q. All right. Let me just
23 sort of -- let's go back then. So at this information
24 centre, the first information centre you wouldn't want
25 to see the level of planning which is done or being

1 proposed by MNR in addition to the things we did.

2 So at the first information centre I take
3 it that what you would want to see would be a map which
4 would show for every working group all the area in the
5 management unit which would meet the selection criteria
6 for that working group?

7 MS. DAHL: A. It would be --

8 Q. You told me yesterday --

9 A. It would be the reasonable areas
10 which could form options. I mean, obviously, if
11 there's two stands off in the one corner all by
12 themselves, that wouldn't be a reasonable alternative.

13 Q. They'd have have to meet the
14 selection criteria?

15 A. Yes.

16 Q. And the public would come there and
17 there would be no roads shown going to any of those
18 areas, no indication of the areas of concerns which
19 might be encountered?

20 A. No, that's not what I've said.

21 Q. All right. Let's take them one at a
22 time. It would show some roads?

23 A. You would show the alternatives that
24 would be considered to access those areas and the areas
25 of concern that are on your values map that may be

1 affected by those areas if they're selected.

2 Q. And the public would have some input
3 as to where they would like you to go based on that
4 very general information; is that correct?

5 A. Yes, the public would have input into
6 that.

7 Q. All right. Now, you would have to go
8 away with that information and make a decision as to
9 what areas you, as the plan author or as the Ministry,
10 whatever, would select for harvest; is that correct?

11 A. Yes. Yes.

12 Q. And then you would have to go back to
13 the public and tell them: Here's what we have selected
14 for harvest; is that correct?

15 A. Yes.

16 Q. And you have to explain to them why
17 you didn't choose the areas -- let's say you went to an
18 area that they didn't want to go to, you would now have
19 to tell them at the next information centre why you
20 didn't go where they wanted to go; is that right?

21 A. Yes. In a way that's done when you
22 show the advantages and disadvantages of the different
23 options, then you select your option.

24 You can perhaps elaborate on why those --
25 you know, why the advantages outweighed the

1 disadvantages there.

2 Q. And you're going to have to show --
3 when you go to that next information centre you're
4 going to have to show, do all the detailed planning
5 that's referred to in--

6 A. You would go back based on public
7 input--

8 Q. --in MNR's terms and conditions?

9 A. --and complete the detailed planning
10 in relation to the areas that you've selected. In
11 other words, it's the same process, you're just
12 bringing the public in a little bit earlier. That's
13 the way, you know, environmental planning normally
14 works.

15 Q. This proposal seems to me adds at
16 least one additional information centre.

17 A. No, those decisions could be shown in
18 the draft timber management plan and presented at the
19 second information centre.

20 Q. When do people get to comment on the
21 alternatives then, the alternative road corridors, the
22 alternative water crossings, the prescriptions for
23 areas of concern. What you're suggesting is you go to
24 them --

25 A. At the first --

1 Q. Wait a minute, wait a minute, let me
2 finish. What you're suggesting is you give them this
3 general stuff at an information centre, you take it
4 away, you do all the detailed planning, you do all the
5 water crossings, you do all the road corridors and you
6 give it to them in the draft plan and say there you go.

7 Because if you're going to give them a
8 chance to comment on that in the same fashion that is
9 provided to them to comment in MNR's proposal, and you
10 give them the same opportunity to comment on those
11 details as it appears to me many people coming before
12 this hearing want an opportunity to do, you've got to
13 do something again, you've got to give them that
14 opportunity and then consider what they say and prepare
15 another draft plan.

16 A. The public would comment on the
17 alternatives in a more general way than is currently
18 proposed at the first information centre. You then
19 make the decisions and show that in the draft timber
20 management plan. There's another information centre
21 where the public has a chance to comment on what was
22 decided in that plan.

23 Q. No, no.

24 A. Then the alterations to the plan are
25 made and then the final plan notice is issued and the

1 public gets a chance to see what the final decisions
2 were.

3 Q. The alterations which are
4 permitted -- pardon me, are contemplated by the present
5 process, the list of required alterations is something
6 which happens after the public -- I mean, the plan
7 which is put before them upon which they comment is one
8 which has had all this detailed planning done,
9 including an opportunity for the public to contribute
10 to whether they like all these alternatives and the way
11 that the planning is done.

12 A. The way the planning process is
13 currently structured, at the first formal opportunity
14 the public sees the areas selected for harvest, a
15 detailed evaluation of alternative access roads and
16 area of concern prescriptions for those areas that have
17 been selected.

18 That goes in the draft plan, they then
19 get another chance to look at the same things in the
20 draft plan, perhaps comment on it a bit more, and then
21 there's a notice of the final plan inspection.

22 I don't see any opportunity for the
23 public to have any sort of real input in those
24 decisions if they're made before the first information
25 centre.

1 Q. But the first time, according to what
2 you're suggesting, the public would have an opportunity
3 to see what the Ministry was going to do with their
4 comments on the detailed planning, where you're going
5 to cross the stream and that sort of thing, wouldn't
6 occur until your draft plan stage, which means they
7 wouldn't get to see what you're going to do with that
8 until what we call the final stage, which means if
9 you're really going to give them a chance and convey to
10 them that they've got some input, you'd have to listen
11 to them at your final stage and if it made sense you'd
12 have to change it again and come up with another -- the
13 final, final plan.

14 A. It's also my understanding that
15 during the planning process when people have specific
16 concerns they're not limited to only discussing those
17 concerns at the information centres, they would have
18 contact with the district office inbetween and I'm sure
19 that they would be informed of exactly what was going
20 to be done with their concern.

21 Q. Okay.

22 A. There's a line somewhere between how
23 detailed planning you present to the public at the
24 first information centre, and that's where I suggest
25 the planning team has a role to decide on just how

1 detailed you should get before you present the
2 information to the public.

3 Q. Thank you, Ms. Dahl.

4 Can we look at your example on page 8 and
5 9 of the witness statement. You have indicated that
6 that is the level of detail that might be provided at
7 this first information centre in relation to alternate
8 harvest areas or optional harvest areas; is that right?

9 A. Yes, that's the level of detail that
10 would probably be appropriate.

11 Q. Now, in the example - I know it's not
12 supposed to be a realistic example, I think that's what
13 you said - there is in fact the nub of a real life
14 example in terms of conflict with a tourist operator.

15 You've got a tourist operator in
16 alternative A and you've got a tourist operator in area
17 alternative B.

18 A. I don't think you can look at the
19 example like that.

20 Q. All right. Let's --

21 A. Because, as I said, it's not a
22 realistic example, it's simply a level of detail.

23 Q. We're going to look at your -- right
24 now MNR selects areas and if they've got a tourist
25 operator there they deal with it.

1 A. They mitigate the impacts.

2 Q. They mitigate. If you go to optional
3 harvest areas it's possible that you're going to have a
4 tourist operator in optional area A, which may have
5 been in what MNR would have selected, and now you've
6 got another area, you've got another tourist operator
7 over there and you have to deal with that tourist
8 operator as well; is that right?

9 A. It would be a consideration when
10 you're determining your advantages and disadvantages.

11 Q. And how would you -- do you really
12 think that -- and going from one area to the other
13 might involve different roads?

14 A. It's possible.

15 Q. Different numbers of water crossings?

16 A. It would be a consideration in the
17 advantages and disadvantages of those areas.

18 Q. And how would you decide who you're
19 going to affect. How are you going to decide that:
20 Well, we'll potentially affect tourist operator A as
21 opposed to tourist operator B?

22 A. How you decide is based on your
23 advantages and disadvantages and your public input.
24 The effects on the two tourist operators may be
25 different in terms of magnitude, there may be other

1 effects on other values in one area and not the other.

2 Q. How do you determine what the effects
3 are on those other values unless you really know what
4 it is you're going to do in terms of where the road
5 could go, how many water crossings you would have,
6 whether the areas of concerns which you would encounter
7 on the way way could in fact be mitigated differently?

8 A. Because I think that the planning
9 team and the forester would have a general idea of
10 those things at this stage when they're discussing it.

11 Q. And you think that tourist operator B
12 and tourist operator A would be happy with just saying
13 that well -- like, without any detailed planning at
14 all, without anything similar to what MNR does here,
15 that they would be content with that decision?

16 A. They would be informed on what the
17 final decision was and the reasons for it.

18 Q. But you want to resolve conflict, you
19 want everyone to in fact feel that they've had lots of
20 input and their views have been considered.

21 Do you think they're going to have that
22 view if you do that kind of broad brush decision and
23 just say: Well, that's what we did.

24 Don't you think that those people, and
25 people like Mr. Hanna and his clients, are going to

1 say -- if that's what you're going to do, start showing
2 these optional areas, he's going to say: Show me the
3 advantages and disadvantages, show me the analysis you
4 did of all the water crossings, give me the
5 quantitative analysis you did on all of that.

6 Now, if the OFAH don't have their
7 opportunity to get everything they want in terms of
8 quantitative this and quantitative that, I suggest to
9 you that they're going to be looking for a lot more
10 detailed planning and won't be satisfied -- pardon me,
11 in relation to these optional areas, they're not going
12 to be happy with what you're suggesting.

13 A. I don't think they'd get that
14 detailed planning that they're asking for under the
15 current proposals anyways.

16 And there may well be an alternative area
17 C where there is no tourist operator affected, and the
18 way the planning's proposed to be done now that
19 wouldn't even be considered.

20 Q. Okay.

21 A. At least this way the tourist
22 operators would have an opportunity to have some input
23 into that decision.

24 Q. One last question. What happens if
25 you've got tourist operator A and B, you choose to go

1 to B and B complains?

2 A. Well, B can go through the issue
3 resolution process, can request a bump-up if they want
4 and if they did request a bump-up, then the one thing
5 that would be looked at would be the alternatives that
6 were considered and the rationale for selecting the
7 area that was selected.

8 Q. Ms. Dahl, we've spent a lot of time
9 at this environmental assessment dealing with
10 mitigation measures and the Board has heard about how
11 timber management takes place.

12 Mr. Martel asked a question the other day
13 in the context of this discussion about optional
14 harvest areas and he said: I can't -- he says, can't
15 say in one area or can you say that in one area of the
16 management unit you will ignore the environment and in
17 one part that you won't.

18 Do you remember him saying that?

19 A. No, not specifically.

20 Q. All right. If in fact the mitigation
21 measures work, if in fact timber management can be
22 carried out in an environmentally acceptable way, if
23 the guidelines if applied properly result in good
24 environmental protection, then conceptually if they're
25 applied; if that takes place in area A the environment

1 should be dealt with in an acceptable way, if that
2 takes place in area B the environment should be dealt
3 with in an environmentally acceptable way. Would you
4 agree with that?

5 A. Yes, the purpose of looking at
6 alternatives is to try and determine which area can be
7 operated in with the least negative effects.

8 Q. One short question in relation to
9 your suggestion that there be an index to EA
10 components, and that is found -- I think it's found in
11 your reference book Exhibit 2200B, I think. Pardon me.

12 MS. SEABORN: Pages 20 and 21 of the
13 evidence.

14 MR. FREIDIN: Q. Pages 20 and 21 of the
15 evidence, I'm sorry, Exhibit 2200A. And I understand
16 from the last paragraph on page 19 that the Ministry is
17 not proposing a term and condition to address this and
18 that there are discussions ongoing about how that
19 particular index should read?

20 MS. DAHL: A. Yes.

21 Q. So it's possible that the headings
22 might change, the subject matters within them might
23 change, it's all being discussed at the moment?

24 A. It's under discussion though I
25 understand there's -- at least I believe there's

1 agreement on the headings. The subject matter
2 underneath them is under discussion, I assume.

3 Q. Okay, thank you.

4 Ms. Dahl, in Ontario Federation of
5 Anglers & Hunters -- pardon me, Coalition's
6 Interrogatory 19(c).

7 In that Interrogatory 19(c), the answer,
8 you talk about where the issue of alternatives to the
9 undertaking is appropriately dealt with and you
10 indicate that:

11 "The need to consider a broad range of
12 alternatives to and alternative methods
13 is dependent upon the class of
14 undertakings to which the document
15 applies. In some cases it will be
16 perfectly reasonableness and logical to
17 consider alternatives to at the parent
18 Class EA stage only and, in other cases,
19 it may be reasonable and logical to
20 reconsider alternatives to for specific
21 projects implemented under the Class EA.
22 The current practice varies depending on
23 the Class EA."

24 Would you agree with me that having
25 regard to the need for the industry to have certainty

1 in terms of wood supply and having regard to the nature
2 of this particular undertaking that the subject matter
3 of alternatives to the undertaking is only
4 appropriately dealt with at the Class EA stage?

5 A. Yes. MOE is not proposing that
6 alternatives to be reconsidered when individual timber
7 management plans are developed.

8 Q. All right. And now, there has been
9 discussion about the null alternative?

10 A. Yes.

11 Q. And would you agree that when one is
12 talking about alternatives to, when a proponent in a
13 class environmental assessment talks about -- well, in
14 any environmental assessment, deals with the
15 alternatives to, the null alternative; i.e., the do
16 nothing, is one of the alternatives which is
17 considered?

18 A. Yes.

19 Q. Now, dealing with your evidence about
20 the null alternative at the TMP level, and that
21 discussion took place in relation to these optional
22 harvest areas, would you agree that if the null at the
23 timber management planning level can be used for
24 individual areas of operations as a formal matter of
25 process that conceptually, as a matter of process, it

1 is an alternative which is open for all areas of
2 operations?

3 A. I'm not certain what you mean by a
4 matter of process.

5 Q. If you put into place a planning
6 process which says to the world: When you come to get
7 involved in timber management planning at the forest
8 management unit level an option available to you is to
9 argue that the null alternative; i.e., no operations,
10 occur on an individual area, this optional harvest
11 area, then conceptually that same process would also
12 leave it open for that alternative; i.e., the null
13 alternative, to apply to all operations?

14 A. Not necessarily. I think the way
15 that I've characterized the use of the null alternative
16 is that it's appropriate to consider whenever you have
17 to make a decision between alternatives. It can assist
18 in that decision and be useful.

19 We're not proposing that the null
20 alternative be a formal part of the planning process.
21 I've just suggested that it can be useful to consider
22 it when you have to make a decision between
23 alternatives. And in fact I've seen that done in some
24 timber management plans when you're dealing with a
25 specific concern, one of the options considered may be

1 the null alternative.

2 Q. This is in specific areas of concern?

3 A. Yes.

4 Q. Right. That is -- in those cases,
5 when that happens in the context of the area of concern
6 planning process, the null, as you like to use that
7 word, or the decision -- or doing nothing is the
8 product of the planning process.

9 A. It can be a decision for that
10 specific area of concern. It's one of the options
11 available, yes.

12 Q. It's really the reflection of a
13 decision that one cannot operate in that area without
14 having adverse environmental effects?

15 A. Yes.

16 Q. Now, notwithstanding -- would you
17 agree with me that if the null was made a formal matter
18 of process, the opportunity to say no operations in a
19 particular area, and that was made formally a part of
20 the timber management planning process, it would be
21 difficult for the Minister on a request for bump-up
22 when somebody said the null alternative should apply
23 here, you shouldn't be allowed to harvest there at all,
24 it would be difficult for the Minister to say that is
25 not a proper matter to be addressed at the local level.

1 Would you agree with that?

2 A. I don't believe that the Minister
3 would say that it's not a proper matter to be
4 considered at the local level.

5 Q. Well --

6 A. And I'm not sure what you're getting
7 at.

8 Q. Well, if somebody comes forward and
9 says -- and it's contemplated by a formal process that
10 they can come forward and say: Operations in this
11 particular area just shouldn't occur, we shouldn't have
12 timber management there in this five years, maybe the
13 next time they come back and say: We don't want it
14 here again, we don't want it here again.

15 If that option is available as part of
16 the process and they came before the Minister and the
17 Minister said: All right, we'll have an individual EA
18 on that, what would the undertake be, timber
19 management; wouldn't it?

20 A. It would be timber management in that
21 specific area. It would look at --

22 Q. All right. Timber management in that
23 specific area. And what would the -- and this
24 individual environmental assessment would be now the
25 alternatives to. Wouldn't one of the alternatives to

1 have to be the null alternative?

2 A. Yes, you have to consider that as an
3 alternative to.

4 Q. And wouldn't that in fact be the very
5 alternative to or one of the alternatives to which was
6 being dealt with in this environmental assessment.

7 And what I'm suggesting to you is that to
8 have an individual environmental assessment on a forest
9 management unit - this is after, hopefully there is an
10 approval for this undertaking - to put in place a
11 process where somebody can come along and have an
12 individual environmental assessment in relation to
13 timber management on an area which has already been
14 approved for timber management would not only be
15 inconsistent with the land use plans which said timber
16 management was an accepted use here, but it would also
17 be inconsistent with an approval of this undertaking.

18 A. That is exactly what a bump-up is
19 though, and that's why there are bump-up provisions in
20 a Class EA, to allow for that sort of thing to take
21 place where there are significant concerns or expected
22 environmental effects.

23 Q. You said in your evidence, and I
24 think I've got you correctly, we have not indicated
25 that the null alternative be considered, we don't have

1 a term and condition that the null alternative be used.
2 Is that a fair characterization of your evidence?

3 A. Yes.

4 Q. If that is the case, would you
5 support MNR's position that the Board should say in its
6 reasons for decision in a clear and unequivocal way
7 that the null alternative cannot and should not be a
8 requirement at the FMU level during timber management
9 planning because to do so would be inconsistent with
10 the approval of the class of undertakings known as
11 timber management?

12 A. No, I couldn't agree with that
13 because, as I said, from a planning perspective you
14 should always think about the null alternative when
15 you're making a decision between alternatives.

16 I would agree that it would not be
17 appropriate to consider the null as an alternative to
18 timber management in a forest management unit after a
19 Class EA approval has been issued.

20 In other words, you wouldn't formally
21 look at not operating at all in that forest management
22 unit.

23 Q. I'm sorry, what was the last part?

24 A. You would not formally look at the
25 alternative of not conducting any timber management

1 operations within that forest management unit.

2 Q. But in the example I gave you, the
3 discussion we had about the null alternative arising in
4 the case of operational harvest areas, if in fact what
5 you're saying is that people wouldn't be allowed to say
6 no timber management in that area because -- for any
7 number of reasons, but the null alternative; i.e., no
8 timber management -- let me think.

9 This will be my last question. Let's see
10 if I can spit it out without too much difficulty.

11 ---Discussion off the record

12 MR. FREIDIN: Madam Chair, I think what
13 I'm going to do is not ask another question, and I just
14 want to indicate that a lot of these questions,
15 although they may on first blush appear to be somewhat
16 academic, in the Ministry's view go to the heart of one
17 of the very basic issues that's going to have to be
18 addressed by the Board.

19 There are some differences of opinion on
20 some of these matters with the Ministry of the
21 Environment which I'm sure we will continue to discuss
22 with the Ministry of the Environment and, hopefully,
23 reduce the number of differences that exist before we
24 come to make final argument.

25 Thank you for your patience panel, and

1 particularly you, Ms. Dahl.

2 MADAM CHAIR: Thank you, Mr. Freidin.

3 Ms. Seaborn, do you want a break before
4 we do your re-examination or are you prepared to just
5 go ahead?

6 MS. SEABORN: I'll be very brief, I'll
7 probably only be five or 10 minutes, but if I could
8 just maybe have 10 minutes and have a look at my notes
9 and that would certainly ensure that we finish very
10 quickly.

11 MADAM CHAIR: All right. We'll take our
12 morning break then.

13 MS. SEABORN: Thank you.

14 ---Recess at 10:15 a.m.

15 ---On resuming at 10:30 a.m.

16 MADAM CHAIR: Please be seated.

17 Ms. Seaborn.

18 MS. SEABORN: Thank you, Madam Chair, Mr.
19 Martel.

20 RE-DIRECT EXAMINATION BY MS. SEABORN:

21 Q. Mr. Bax, yesterday Mr. Freidin went
22 through with you a number of MNR's terms and conditions
23 relating to silvicultural effectiveness. Do you recall
24 that discussion?

25 MR. BAX: A. Yes, I do.

1 Q. This was Exhibit 2032, the MNR terms
2 and conditions. Now, can you point me to where in
3 MNR's terms and conditions there is a commitment during
4 the life of the approval for MNR to report on the
5 silvicultural effectiveness either in a timber
6 management plan or in other reports that are made
7 available to the public?

8 A. You're asking me, does the MNR
9 specifically address effectiveness or silvicultural
10 effectiveness in one of their terms and conditions?

11 Q. Yes, I'm saying: Can you point me to
12 where in MNR's terms and conditions there's a
13 commitment during the life of the approval for MNR to
14 report on silvicultural effectiveness?

15 A. I'm trying to think off the top of my
16 head. What we're asking for is that we can track
17 silvicultural effectiveness. They've indicated what
18 they're going to do and what they did. What we very
19 often miss is: Was it effective.

20 And I believe in our terms and conditions
21 that is what we have asked for, so that we can have
22 that tracking ability and we believe it's the general
23 standard site type, that initiative undertaken by the
24 MNR that would provide that common thread.

25 The various effectiveness reporting, and

1 the only one that is present at the current time in the
2 timber management planning process would be the free to
3 grow, and that is simply -- I guess our concern is two
4 things: One, the long-term nature of the activities
5 that we undertake, and the effects of those activities
6 and if they are truly silviculturally effective.

7 And free to grow is insufficient over the
8 life of the stand to do that and it's not -- it's the
9 only place that we can see that they do report on
10 silvicultural effectiveness, and that's insufficient to
11 provide the common thread that we're looking for.

12 As far as I can tell they do not report
13 on effectiveness, except at that place on free to grow
14 and that's an insufficient measure.

15 Q. Thank you. Now, Mr. Freidin also
16 asked you a number of questions about a program
17 referred to as STEMS. Do you know if a timetable
18 exists with respect to the implementation of the STEMS
19 program?

20 A. I believe from their reply evidence
21 No. 3 that they've indicated they're going to complete
22 a feasibility study by the end of this year, 1992.
23 That's the only indication.

24 So we don't have enough detail yet to
25 really see what they're going to do with it, they're

1 just at the feasibility stage.

2 Q. Do you know when MNR plans to
3 implement STEMS?

4 A. No, I do not because they're at the
5 feasibility stage.

6 Q. And do you know if the STEMS program
7 will result in reports in respect of silvicultural
8 effectiveness being required to be included as part of
9 a timber management plan?

10 A. No, I do not.

11 Q. Now, Mr. Bax, Mr. Cassidy asked you
12 about combinations in the groundrules. Do you recall
13 that discussion? He was looking at your overheads and
14 your sample Table 4.11 and he asked you a number of
15 questions about the combinations.

16 A. Yes.

17 Q. You recall that discussion?

18 A. Yes, I do.

19 Q. Now, in your experience, how many
20 silvicultural packages included in Table 4.11 are
21 actually implemented for a particular management unit?

22 A. The actual number of silvicultural
23 packages that are available to most of the foresters
24 would seem to indicate or seem to fall around 10 to 12,
25 10 to 15, that neighbourhood, depending on the

1 complexity of the forest unit.

2 But through my review of the
3 silvicultural groundrules that I reviewed, and I did
4 make a point of numbering them, there's about that
5 average, 10 to 15.

6 Q. And, Mr. Bax, in response to one of
7 Mr. Hanna's questions you responded that - and it was
8 when he was looking at these eligibility maps and the
9 allocation maps - you responded that the resource
10 dictates your choice of where to harvest and, in some
11 cases, you have no choice. Do you recall that
12 testimony?

13 A. Yes, I believe so.

14 Q. Did you mean to imply that --

15 MR. FREIDIN: I don't think he should be
16 led, did you mean to imply something. You can ask him
17 what he meant by that.

18 MS. SEABORN: Q. Okay. What did you
19 mean by that statement?

20 MR. BAX: A. What I had in mind is, if
21 there's a number of stands out there that meet your
22 eligibility criteria, you have a choice; but if there
23 is certain stands out there that don't meet the
24 eligibility criteria, you have no choice.

25 I mean, you can only go to stands that

1 meet the eligibility criteria.

2 Q. Thank you. Now, Mr. Cassidy asked
3 you a number of questions in respect of the
4 eight-hectare provision that's included in MOE's term
5 and condition 21(c).

6 A. Yes.

7 Q. Could you tell me how the
8 eight-hectare area provision relates to operations in
9 the field?

10 A. I view it as a practical cut-off, if
11 you will, and I believe the intent there is, if there
12 are stands or portions of stands greater than eight
13 hectares in size that meet the shallow or very shallow
14 definitions, then the forester can utilize, he has two
15 or three choices.

16 He can first utilize alternative logging
17 methods such as cut to length or tree-length which
18 leave the branches and tops on those sites.

19 The second choice he has, he can utilize
20 the Roto-Lim device or similar devices which we've had
21 available to us with that full-tree operation which
22 again leaves the branches or needles on these fragile
23 sites.

24 And the third choice he would have is he
25 can redistribute the slash, similar to what Madam

1 Chairman asked.

2 Q. Thank you. And, Mr. Bax, Mr.

3 Cassidy - I think it was his last question or close to
4 near the end of his questions for you at least - asked
5 you, my notes have the following question, and this was
6 in relation again to MOE term and condition 21(c), and
7 my notes said he asked you: If it is practical to
8 ignore you wouldn't disagree with that, and you
9 resonded, no I wouldn't.

10 Now my question is: What did you mean by
11 that response?

12 A. I'm sorry, ask it again. In relation
13 to determining the packages, you mean?

14 Q. No, Mr. Cassidy -- this is the notes
15 I have. He asked you the following question in respect
16 of MOE term and condition 21(c), and he said: If it is
17 practical to ignore you wouldn't disagree with that,
18 and you responded, no I wouldn't.

19 And I'm asking you now, what did you mean
20 by that response?

21 A. Well, I answered wrong obviously
22 there. I would have meant, yes, you have to follow the
23 guidelines or determine the intent of the terms and
24 conditions, which is to leave the branches and tops and
25 needles on those sites that are shallow or very shallow

1 because that's where our concern lies with nutrient
2 logs. So, I mean, it isn't -- if it's --

3 Q. That's fine.

4 A. Yeah.

5 Q. Now, Mr. Cassidy also asked you a
6 number of questions about MOE Appendix 9 term and
7 condition 1(k).

8 A. Make sure I'm on the right one.

9 Q. Now, could you tell me where that
10 term and condition was derived from?

11 A. That is straight from the timber
12 management planning manual, page 109, where the
13 requirement is to have a stand listing of the stands
14 that are going to be harvested in the five-year term.

15 Q. Thank you.

16 MS. SEABORN: Madam Chair, that completes
17 my re-examination. Thank you.

18 MADAM CHAIR: Thank you, Ms. Seaborn.

19 The Board's has another question for Mr.
20 Bax with respect to the eight-hectare full-tree logging
21 or clipping restriction; and, that is, if slash is left
22 in the bush, that seems to solve part of MOE's concern
23 about nutrient depletion, but with respect to the issue
24 of smaller diameter wood and more fiber being taken
25 from a cut-over by chipping, does the eight-hectare

1 restriction still apply to chipping even -- well, with
2 chipping it's difficult -- even if you left the slash
3 in the cut-over and just took the logs out to chip by
4 the roadside, you would have smaller diameter wood, and
5 would you still have a concern about the nutritional
6 value of the site?

7 MR. BAX: On those sites where you have
8 poor stocking?

9 MADAM CHAIR: Yes.

10 MR. BAX: Yes, that same concern applies
11 because the stands are poor usually for a reason and
12 usually part of that reason is related to the
13 productivity of the site.

14 MADAM CHAIR: So would the eight-hectare
15 restriction apply or not if you left slash in the bush?

16 MR. NEARY: Could I answer that, Madam
17 Chair?

18 In the case of those eight hectares, at
19 our current level of understanding we would say that
20 full-tree chipping operations could occur with a
21 provision that slash remains. Most of the studies that
22 I've seen indicate that approximately - and it varies
23 from species to species and tree to tree - but you've
24 got about half the nutrient in the foliage and twigs

25 MADAM CHAIR: So the eight-hectare

1 restriction doesn't apply if you leave slash in the
2 bush.

3 MR. NEARY: That's correct.

4 MR. BAX: That's right.

5 MADAM CHAIR: Another question the Board
6 wanted your opinion on is, given that situation, what
7 does MOE believe will be the value of a long-term study
8 on full-tree logging and site productivity that's being
9 proposed by the Ministry of Natural Resources.

10 MR. NEARY: Madam Chair, our term and
11 condition 21(c) is trying to address our concern about
12 nutrient depletion. Right now the evidence of the
13 Ministry of Natural Resources is that they do not take
14 this into consideration in timber management planning.

15 Given the evidence out there in terms of
16 scientific studies and particularly the studies
17 conducted by Maliondo that have been filed with the
18 Board as part of Forests for Tomorrow, in our opinion,
19 that is the best that is out there right now in terms
20 of looking at different tree species and different
21 sites.

22 But we believe that there is cause for
23 concern. We do not think that you can go ahead with
24 this 20-year horizon or potential 20-year horizon
25 before addressing that concern.

1 Term and condition 21(c) is our attempt
2 at trying to get at that. We recognize that it can be
3 improved. There are obviously site types, many
4 different site types out there that perhaps we should
5 be concerned about that aren't contemplated in that
6 term and condition and vice versa, sites that we
7 shouldn't be concerned about that are perhaps, and we
8 recognize that there is room for improvement in the
9 types of restrictions that we're asking for.

10 What we cannot contemplate or cannot
11 accept is going forward with business as usual with
12 some 20-year time horizon in mind.

13 We support that research. Based on that,
14 hopefully we can resolve this risk with more resolution
15 and come up with a better set of guidelines.

16 The environmental guidelines that
17 Ministry of Natural Resources contemplates may be
18 another vehicle by which we can address this, but
19 again, we don't know what they contain, when they will
20 be implemented. We just can't see going ahead with an
21 approval that doesn't contemplate any of this.

22 MADAM CHAIR: Thank you. The Board
23 understands that, but I guess our question is: Would
24 the practical result of a long-term full-tree
25 logging/chipping study be that slash should be left in

1 the bush? Would that be addressing the essential
2 concern of the study, or are there other matters that
3 are equally important?

4 MR. NEARY: Well, there are other matters
5 that are equally important, Madam Chair. It is
6 entirely possible that there may be sites that should
7 be left alone and that even redistributing slash will
8 not suffice to protect the viability of that site in
9 terms of, you know, maintaining standing timber.

10 There may be sites, as I said, other than
11 what we've contemplated that perhaps will be addressed
12 in this study. Our hope from that study is that we
13 will come up with something better than what we've
14 suggested.

15 This is what we're suggesting to try and
16 address that concern based on our current knowledge
17 level. Everybody recognizes I think, including the
18 Ministry of Natural Resources, that this is something
19 that warrants further study. And our evidence was, do
20 you go ahead ignoring it or do you go ahead with
21 something?

22 MR. MARTEL: I can't recall, but are you
23 meeting with MNR to maybe improve 21(c), or is there no
24 discussion with respect to that?

25 MR. NEARY: There is no discussion with

1 respect to 21(c). It is possible that discussions
2 involving the environmental guidelines may address some
3 of our concerns in 21(c).

4 MS. SEABORN: Mr. Martel, if I can just
5 respond to that question. MNR has been delighted to
6 meet with us on a number of occasions with respect to
7 our terms and conditions and, as a result of, as Mr.
8 Freidin pointed out, a number of meetings we have a
9 new -- we are very much in support in a number of areas
10 in respect of MNR's terms and conditions dated January
11 6th. You'll notice by the size of our new terms and
12 conditions that many issues have been resolved.

13 We echo Mr. Freidin's comments. We
14 propose to continue to meet with the Ministry between
15 now and final argument. One of the things I would like
16 to do is obviously sit down with my client and with MNR
17 and have a look at our existing terms and conditions
18 and update the Board with respect to our position on
19 the wording that we've included in those terms and
20 conditions, including term and condition 21(c) as well
21 as the other terms and conditions.

22 Things have been changing quite quickly,
23 as evidenced by the agreement that was reached late
24 last week on term and condition 32(a) that obviously
25 has implications for some of the other reporting that

1 we have suggested.

2 And given the nature of the process, our
3 evidence had to be prepared and had to be filed and we
4 had to go ahead, but we do not want to leave the Board
5 with the impression that our position is cast in stone
6 on any of these matters.

7 We would like the intent of our terms and
8 conditions to be met at the end of the day and we're
9 not so worried about the specific words that are used
10 in the terms and conditions as long as the concern is
11 addressed.

12 MADAM CHAIR: Okay. Thank you, Ms.
13 Seaborn.

14 MS. SEABORN: I would like to thank the
15 Board on behalf of MOE for its interest in and
16 attentiveness to our evidence this week.

17 Thank you.

18 MADAM CHAIR: Thank you very much. And
19 we thank the witnesses very much for getting your
20 evidence in very quickly this week and for returning
21 today, thank you very much, and we'll see you again at
22 some time. Thank you.

23 We will be returning -- the hearing
24 begins on...?

25 MR. PASCOE: Monday, May 11 at 10:30.

1 MADAM CHAIR: Monday, May 11th at 10:30

2 and we will be hearing the evidence of --

3 MR. PASCOE: IWA Canada and the OFA,

4 MADAM CHAIR: Okay. Thank you.

5 ---Whereupon the hearing was adjourned at 10:50 a.m.,
6 to be reconvened on Monday, May 11, 1992, commencing
7 at 10:30 a.m.

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